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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,889	03/05/2002	Mattias Johansson	65.748-753	2007

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EXAMINER

HANSEN, COLBY M

ART UNIT PAPER NUMBER

3682

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/091,889

Applicant(s)

JOHANSSON ET AL.

Examiner

Colby Hansen

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/174,748.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7-9.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 10.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huff et al (US Pat. 2,860,720) in view of French Pat. 2739947.

Huff et al (US Pat. 2,860,720) discloses an adjustable pedal assembly comprising:

A mounting arrangement for attachment to a vehicle structure;

At least one pedal 60 having first and second ends and supported for pivotally moving about a first pivot axis 64 between rest and applied position;

An adjustment element pivotally supported on said mounting arrangement about a second pivot axis 48 with said second pivot axis remaining fixed relative to said mounting arrangement as said adjustment element 40,42,70,78,80,82 pivotally moves between various adjusted positions;

Said first pivot axis 64 supporting said first end of said pedal on said adjustment element spaced from said second pivot axis for pivotal movement relative to said adjustment element with said first pivot axis being generally parallel to said second pivot axis;

A drive mechanism 70,78,80,82 operably connected to said adjustment for selectively rotating said adjustment element, said pedal and said first pivot axis about said second pivot axis

Art Unit: 3682

48 between said various adjusted positions for selectively moving said pedal between a plurality of operable position.

A second pedal pivotally supported by said adjustment element whereby said adjustment element simultaneously adjusts the operational position of both of said pedals;

Said adjustment element adjusts an angular position of said accelerator pedal pad when selectively rotated by an electric motor 78;

Said adjustment element maintains said first pivot axis at a lower vertical position than said second pivot axis at all adjusted positions.

However Huff et al (US Pat. 2,860,720) does not disclose the use of an electric signal generator for actuation of the accelerator, brakes, and/or clutch.

French Pat. 2739947 discloses a modular electric signal generator responsive to pivotal movement of a pedal for electrically controlling a vehicle system in response to pivotal movement of said pedal about an axis of rotation, said electric signal generator further defined as a potentiometer that emits an electric signal varying with the pivotal position of said pedal between said rest and applied positions about said axis.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the modular electric signal generator of French Pat. 2739947, between the pedals and support structures of Huff et al (US Pat. 2,860,720) as an actuator of the accelerator, brakes, and/or clutch with a modular mounting structure that allows for easier manufacturing of pedal structures of a vehicle.

Regarding claim 35, Huff et al (US Pat. 2,860,720) does not disclose an angle formed between said first and second pivot axes being in the range of 30 degrees to 40 degrees. It would

Art Unit: 3682

have been obvious to one having ordinary skill in the art at the time then invention was made to have utilized an angle between said first and second pivot axes of between 30 and 40 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 26-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,374,695 in view of French Patent 2793947. U.S. Patent No. 6,374,695 claims the same invention except for the use of an electric signal generator to actuate the accelerator, brake, and/or clutch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the electric signal generator of French Patent 2793947 within U.S. Patent No. 6,374,695 so as to have a modular, efficient, and easy to assembly means to actuate the accelerator, brake, and/or clutch of a vehicle.

Art Unit: 3682

Claims 26-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,151,984 in view of French Patent 2793947.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the electric signal generator of French Patent 2793947 within U.S. Patent No. 6,151,984 so as to have a modular, efficient, and easy to assembly means to actuate the accelerator, brake, and/or clutch of a vehicle.

#### ***FACSIMILE TRANSMISSION***

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 305-3597**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 305-3597) on \_\_\_\_\_

(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

\_\_\_\_\_

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please

Art Unit: 3682

do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (703) 305-1036. The examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

  
DAVID A. BUCCI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Colby M. Hansen

  
Patent Examiner 12/15/03